

In order to be fully responsive, Applicants hereby provisionally elect the invention of Group II, claims 101-118, drawn to an immunoconjugate that comprises an antibody joined to a therapeutic agent that competitively inhibits binding of an antibody, classified in class 530, subclass 391.7, with traversal.

According to the Examiner, claim 109 is generic, that is, drawn to a number of patentably distinct species, and thus the Examiner has required a further election of one of the following species of therapeutic agents: a cytotoxin, an anti-tumor drug, a radioactive agent, a second antibody, and an enzyme. Applicants hereby provisionally elect an anti-tumor drug as a species of therapeutic agent. The claims readable upon the elected species are claims 101-109 and 116-118.

With respect to Examiner's division of the invention into two groups and the reasons stated therefor, Applicants respectfully traverse. In particular, in the reasons stated for the restriction in paragraph 3 of the Office Action, the Examiner states that the "immunoconjugate of group I binds to a Lewis Y antigen, whereas the immunoconjugate of group II binds to an antibody that binds to an (*sic*) Lewis Y antigen." Applicants respectfully submit that this statement by the Examiner is erroneous, and that the restriction requirement is based upon a mischaracterization of the immunoconjugates of Group II on the part of the Examiner. This is discussed further below.

Like the immunoconjugates of Group I, the immunoconjugates of Group II bind to a Lewis Y antigen; in particular, they bind to a Lewis Y antigen epitope that is similar enough to the epitope bound by BR96 so as to competitively inhibit the binding of BR96. Moreover, Applicants submit that a search for prior art for Group II would necessarily search for prior art of Group I.

In view of the foregoing, Applicants submit that all the claims are directed to immunoconjugates comprising antibodies or antibody fragments that bind to the Lewis Y antigen and thus the grounds for the restriction requirement have been obviated. Accordingly, the restriction requirement should be withdrawn.

Applicants retain the right to petition from the restriction requirement under 37 C.F.R. § 1.144.

Applicants respectfully request that the above-made remarks be made of record in the file history of the instant application. If any outstanding issues remain, Applicants respectfully request that the Examiner call the undersigned to discuss such issues.

Respectfully submitted,

Date October 30, 2002

Adriane M. Antler 32,605
Adriane M. Antler (Reg. No.)

PENNIE & EDMONDS LLP
1155 Avenue of the Americas
New York, New York 10036-2711
(212) 790-9090

Enclosure